

RemarksStatus of Claims

Claims 1-49 and 51 are currently pending.

Claims 1 and 48 are amended herein.

Claims 22 and 50 are canceled herein without prejudice.

Claim 51 is new and applicant respectfully requests consideration of same.

Affirmation of Prior Election of Invention and Withdrawal of Claim 50

Applicant hereby affirms the prior election of Group I, claims 1-49 made in applicant's June 28, 2003 Restriction Requirement in this patent application.

Correspondingly, applicant withdraws from consideration, non-elected Group II, claim 50, with reservation of the right to file divisional application(s) directed to the subject matter of such withdrawn claim under 35 U.S.C. 121.

Response to Rejection of Claims 1-49 Under 35 U.S.C. § 102(e)

In the August 14, 2003 Office Action, claims 1-49 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,527,818 issued to Hattori et al., (hereinafter referred to as "Hattori"). Such rejection of the claims is traversed in light of the ensuing remarks.

Hattori teaches an aqueous dispersion for chemical mechanical polishing clearly requiring the inclusion of a heteropolyacid oxidizer, as set forth at column 2, lines 25-27,

[1] An aqueous dispersion for chemical mechanical polishing characterized by comprising an abrasive, water and a heteropolyacid.

At column 7, lines 5-18, Hattori defines a heteropolyacid as:

As the "heteropolyacid" to be included in the aqueous dispersion of the invention there may be used an acid produced by two or more metals among polyacids formed by condensation of inorganic acids. As the main atoms of the polyacid forming the heteropolyacid there may be mentioned Cu, Be, B, Al, C, Si, Ge, Sn, Ti, Zr, Ce, Th, N, P, As, Sb, V, Nb, Ta, Cr, Mo, W, U, S, Se, Te, Mn, I, Fe, Co, Ni, Rh, Os, Ir and Pt. Among these are preferred V, Mo and W.

As the heteroatom to be combined with the aforementioned main atom there may be used a metal from among Cu, Be, B, Al, C, Si, Ge, Sn, Ti, Zr, Ce, Th, N, P, As, Sb, V, Nb, Ta, Cr, Mo, W, U, S, Se, Te, Mn, I, Fe, Co, Ni, Rh, Os, Ir and Pt, which is different from the aforementioned main atom, and Si and P are preferred.

Hattori's dispersion requires the heteropolyacid as an oxidizer and details same at column 7, lines 37-41 (reproduced below for convenience).

The aqueous dispersions for CMP of the invention can exhibit high performance by containing only the aforementioned abrasive, water and heteropolyacid, but depending on the purpose they may also contain other additives. Such additives include oxidizing agents other than the heteropolyacid, acids other than the heteropolyacid, bases, surfactants, viscosity adjustors, and the like.

The present invention is directed to a chemical mechanical polishing (CMP) slurry composition comprising an organic polymer abrasive and an oxidizing agent. Applicant's slurry composition, as claimed herein by amendment, is free of heteropolyacid.

According to MPEP 2173.05(i) Negative Limitations,

The current view of the courts is that there is nothing inherently ambiguous or uncertain about a negative limitation. So long as the boundaries of the patent protection sought are set forth definitely, albeit negatively, the claim complies with the requirements of 35 U.S.C. 112, second paragraph.

Accordingly, the present invention is patentably different from Hattori, since Hattori requires use of a heteropolyacid as oxidizing agent in an aqueous dispersion where the present invention specifically excludes same.

Based on the foregoing evidence, Hattori does not satisfy the present anticipation rejection. Thus, applicant respectfully requests the Examiner reconsider claims 1-21 and 23-49 and withdraw the rejection under 35 U.S.C. § 102(e), in favor of a Notice of Allowance for pending claims 1-21, 23-49 and 51.

Petition Under 37 CFR 1.136 for Three-Month Extension of Time

Petition hereby is made under the provisions of 37 CFR 1.136 for a three month extension of the term for response to the August 14, 2003 Office Action, extending the term for response to February 14, 2003.

Fees Due and Payable

In connection with applicant's Petition Under 37 CFR 1.136 for Three Month Extension of Time, a fee of \$950 as specified in 37 CFR 1.17(a)(3), is hereby authorized to be deducted from Deposit Account No. 50-0860 in the name of applicant, Advanced Technology Materials, Inc., 7 Commerce Drive, Danbury, CT 06810.

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Applicant does not believe that a fee is due in connection with amendments to claims made herein as applicant has not exceeded the total number of claims for which payment was originally made.

However, should the Office determine that any additional fee is due in connection with the foregoing, applicant hereby authorizes that such fee be deducted from Deposit Account No. 50-0860.

Conclusion

Applicant has made an earnest attempt to fully respond to the August 14, 2003 Office Action in the present application and respectfully requests continued prosecution on its merits.

Should any questions remain in connection with the entry of this amendment, Examiner Morgan is invited to contact the undersigned agent at 203 739-1435 to resolve same.

Respectfully submitted,



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